

31468

SERVICE DATE - DECEMBER 5, 2000

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-290 (Sub-No. 212X)]

Norfolk Southern Railway Company–Discontinuance Exemption–in Hudson County, NJ<sup>1</sup>

On November 14, 2000, Norfolk Southern Railway Company (NS) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from 49 U.S.C. 10903 to discontinue service over approximately 3.84 miles of the

---

<sup>1</sup> The petition is related to two abandonment applications simultaneously filed by Conrail under section 308 of the Regional Rail Reorganization Act of 1973 (3-R Act), 45 U.S.C. 748, a provision added to the 3-R Act by the Northeast Rail Service Act of 1981 (Pub. L. No. 97-35). See Conrail–Abandonment of the Weehawken Branch–in Hudson County, NJ, STB Docket No. AB-167 (Sub-No. 766N); and Conrail–Abandonment of the River Line–in Hudson County, NJ, STB Docket No. AB-167 (Sub-No. 1067N). Conrail has requested that the applications be considered together because the Weehawken Branch and the River Line are operated as a single line due to changes made to track alignment and operations. Where appropriate, the two lines will be referenced as the River Line.

Notices of Insufficient Revenues were timely filed on October 31, 1983, and October 31, 1985, respectively. The Board must grant the applications within 90 days after their filing date (i.e., by February 12, 2001) unless offers of financial assistance (OFA) are filed within the 90-day period. See sections 308(c) and (d).

Weehawken Branch<sup>2</sup> and approximately 6.95 miles of the River Line<sup>3</sup> in Hudson County, NJ. The lines traverse U.S. Postal Zip Codes 07302, 07303, 07306, 07407, and 07087.

NS acquired the right to operate over these lines under the North Jersey Shared Assets Areas Operating Agreement approved by the Board in CSX Corp.–Control and Operating Leases/Agreements–Conrail Inc., STB Finance Docket No. 33388 (Decision No. 89) (STB served July 23, 1998), clarified and modified (Decision No. 96) (STB served Oct. 19, 1998), petitions for review pending sub nom. Erie Niagara Rail Steering Committee v. STB, Nos. 98-4285, et al. (2d Cir. filed July 31, 1998).<sup>4</sup> Pursuant to that agreement, NS does not conduct freight operations over the River Line. NS publishes

---

<sup>2</sup> The 3.84-mile segment extends from the point of switch in Jersey City (approximately MP 0.00), to the southerly R.O.W. line of Baldwin Avenue, in Weehawken (approximately MP 2.84), and includes the former DL&W Railroad Lead to the Hoboken Freight Yard in Jersey City.

<sup>3</sup> The 6.95-mile segment is divided into in two parts: (1) from the connection to the Passaic and Harismus Branch at CP “Waldo” in Jersey City (approximately MP 0.00) to the south side of Clifton Road in Weehawken (approximately MP 4.7), including the River Yard; and (2) from (a) the south side of Clifton Road in Weehawken (approximately MP 0.00) to the northwest side of Tonnelle Avenue (excluding the portion of line, associated track, and underlying right-of-way necessary to retain access and continue service to Durkee Foods) in North Bergen (approximately MP 1.53); (b) the National Docks Secondary in Jersey City from its connection with the River Line at CP “Nave” to the east side of Newark Avenue (approximately 1,350 feet); and (c) the Weehawken Branch (Chicken Yard) in Weehawken, from its connection with the River Line on the east side of Willow Avenue to the end of the track (approximately 2,450 feet).

<sup>4</sup> CSX Transportation, Inc., also acquired the same rights with respect to the River Line and filed a similar petition for exemption on November 20, 2000. See CSX Transportation, Inc.–Discontinuance Exemption–in Hudson County, NJ, STB Docket No. AB-55 (Sub-No. 584X).

rates and maintains stations for the River Line's shippers,<sup>5</sup> and Conrail conducts the actual train operations in NS's name.

The lines do not contain federally granted rights-of-way. A large part of the real estate and track is owned by the New Jersey Transit Corporation (NJT), and the remainder is owned by Conrail.<sup>6</sup> Any documentation in NS's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979).

By issuing this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by March 3, 2001.<sup>7</sup>

---

<sup>5</sup> Two shippers, Cognis Chemical Company and Dykes Lumber Company, are being served.

<sup>6</sup> The River Line's real estate and track was transferred to NJT on or about October 24, 1995, pursuant to the Freight Relocation and River Line Acquisition Agreement that Conrail and NJT entered into on June 8, 1989. Conrail retained a free and exclusive easement for the operation and maintenance of rail freight service.

NJT will reconstruct the River Line and dedicate it to light rail commuter passenger service. The River Line's freight operations will be transferred to Conrail's Northern Branch, which will be reconstructed to accommodate through train service and to remove "at-grade" highway and street crossings. Conrail will not terminate freight operations or consummate the abandonment of the River Line, and NS will not exercise the discontinuance authority, until the Northern Branch has been reconstructed.

<sup>7</sup> NS has requested that its petition for exemption be granted with an effective date of February 12, 2001, to coincide with the anticipated effectiveness of the two related Conrail abandonment applications. This request will be considered by the Board when the petition for exemption is addressed.

Any OFA with respect to the lines should be filed in the pertinent Conrail application proceeding under section 308(d) of the 3-R Act and 49 CFR 1152.27. Each OFA must be accompanied by a \$1,000 filing fee. See 49 CFR 1002.2(f)(25).

All filings in response to this notice must refer to STB Docket No. AB-290 (Sub-No. 212X) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423-0001; and (2) James R. Paschall, Norfolk Southern Railway Company, Three Commercial Place, Norfolk, VA 23510. Replies to the NS petition are due on or before December 26, 2000.

Persons seeking further information concerning abandonment and discontinuance procedures may contact the Board's Office of Public Services at (202) 565-1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152.

An environmental assessment (or impact statement) is normally made available in abandonment or discontinuance proceedings, but under 49 CFR 1105.6(d), the Board may modify the environmental requirements in appropriate circumstances. The requirements are being modified here. NS has never conducted operations over the line apart from those Conrail conducted on NS's behalf. Granting a carrier authority to discontinue service it has never provided appears to have no environmental impact. The requirement that the carrier submit a report and that the Board prepare an analysis are therefore superfluous.

Board decisions and notices are available on our website at

“WWW.STB.DOT.GOV.”

Decided: November 28, 2000.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary